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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,877	02/05/2004	Albert R. Harvey	2507-5787.2US (21811-US-0)	5564
24247	7590	06/13/2005	EXAMINER	
TRASK BRITT P.O. BOX 2550 SALT LAKE CITY, UT 84110			KOSLOW, CAROL M	
			ART UNIT	PAPER NUMBER
			1755	
DATE MAILED: 06/13/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/772,877

Applicant(s)

HARVEY ET AL.

Examiner

C. Melissa Koslow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,8-14 and 16-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,8-14,16-28,30 and 31 is/are rejected.
- 7) ☒ Claim(s) 29 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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The indicated allowability of claims 1, 3-5, 8-14, 16-28 and 30-31 is withdrawn in view of the newly discovered reference(s) to U. S. patent 4,663,065. Rejections based on the newly cited reference(s) follow.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 8, 10, 11, 14, 19, 20 and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 08-127674 in view of U.S. patent 4,663,065.

JP 08-127674 teaches a material comprising carbon black, a processing oil or aid, zinc oxide (a pigment), stearin acid (a plasticizer), an antioxidant, a silane coupling or bonding agent, natural or synthetic rubber, vapor-grown carbon fibers, which inherently have the claimed structure, a sulfur containing curative, a cure accelerator and silica, which U.S. 4,663,065 shows is inherently a flame retardant (part C of claim 1). The material is produced by homogeneously mixing or dispersing the fibers with a crosslinkable rubber polymer, such as the precursor for natural rubber, polyisoprene or polybutadiene, and the other taught components and crosslinking the precursor for the natural or synthetic rubber. The examples show the precursor mixture is solvent free. JP 08-127674 teaches the claimed method and material.

Claims 3-5, 9, 12, 13, 16-18, 21, 22, 26-28, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 08-127674 in view of U.S. patent 4,663,065.

As discussed above, JP 08-127674 teaches the claimed method and material. The taught amount of fibers is 10-150 parts by weight which corresponds to about 6.7-45.4 wt% of the composition, which overlaps the claimed ranges. The amount of crosslinkable polymer is about 30-66 wt%, which overlaps the claimed range. The taught fibers have a diameter of 0.05-0.5

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microns and a length of 10-100 microns, both of which dimension ranges overlaps the claimed ranges. The taught vapor-grown carbon fibers are known to have a high graphitization index, which means it is above 50%, which overlaps the claimed range. Since the composition overlaps that claimed and the fiber size overlaps that claimed, one of ordinary skill in the art would expect the taught composition to have a volume resistivity, tear resistance, parallel tensile strength and perpendicular and parallel elongation ranges to overlaps the claimed ranges, absent any showing to the contrary. The reference suggests the claimed composition and method.

Claim 29 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

There is no teaching or suggestion in the cited art of record of claimed composition since there is not suggestion in the cited art of record to remove the silica or flame retardant from the taught composition.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa Koslow whose telephone number is (571) 272-1371. The examiner can normally be reached on Monday-Friday from 8:00 AM to 3:30 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached at (571) 272-1233.

The fax number for all official communications is (703) 872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cmk
June 10, 2005


C. Melissa Koslow
Primary Examiner
Tech. Center 1700